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DEC 10 2021
IN THIS OFFICE
Clerk U.S. District Court
Greensboro, NC
By [Signature]

422

1:21-CV-422

Case 1:21-cv-00422-WO-JLW Document 58 Filed 12/10/21 Page 1 of 3

be a breach of contract. The Court would also appreciate a more developed discussion of the relevant case law on the question of whether Blue Force's affirmative defenses have the potential to undermine Beta's rights in the property at issue. It is not clear what impact these questions might have on whether a declaratory judgment is appropriate on the limited question of who owns the property at issue and the wording of an appropriate declaratory judgment.


Ordinarily the Court would address these kinds of questions in oral argument, but its schedule does not permit that at this time. Therefore, the Court asks the parties to meet and confer in an effort to clarify and focus the matters raised in the pending motion. Before the meet-and-confer, Beta shall share a proposed declaratory judgment with Blue Force for discussion. Each side may submit a supplemental brief no later than January 3, 2022, no longer than 1,000 words, and Beta shall submit a proposed declaratory judgment as an attachment. If the parties have not agreed on the form of the declaratory judgment, Blue Force may submit a proposed declaratory judgment on January 4, 2022.

It is **ORDERED** that:

1. The motion by defendant Beta Technologies, Inc., for partial judgment on the pleadings or, in the alternative, summary judgment on its counterclaims against plaintiff Blue Force Technologies, Inc for breach of contract and declaratory judgment, Doc. 47, remains under advisement.
2. Counsel shall meet and confer about the source of Beta's ownership interests and clarify what is really in dispute. They shall meet and confer about the form of a narrow declaratory judgment.

3. In connection with the motion at Doc. 47, each party may file a supplemental brief no longer than 1,000 words no later than January 3, 2022. Beta shall attach a proposed declaratory judgment. If the parties do not agree as to form, Blue Force may file alternative language for a declaratory judgment on January 4, 2022.
4. The Court appreciates that the parties agreed mediation should be conducted late in the discovery period. Doc. 41 ¶ 3. But based on its experience generally and with this case in particular, the Court is of the view that the parties should explore settlement earlier, now that they have a somewhat better idea of the scope of their disagreements, the risks, and the costs, in both time and money, of proceeding. If an initial mediated settlement conference is not productive, another one can be held late in the discovery period, as the parties suggest. Counsel for the plaintiff **SHALL** provide a copy of this Order to Judge Gale and counsel shall include the date of the scheduled mediation in the supplemental briefing authorized herein.

This the 9th day of December, 2021.


UNITED STATES DISTRICT JUDGE